



**The City of New York  
LAW DEPARTMENT**  
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December 21, 2023

**BY ECF**

Honorable Colleen McMahon  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: Sierra/Wood, et al v. City of New York, et al.  
No. 20 Civ. 10291 (CM)(GWG)

Your Honor:

I am a Deputy Chief in the Special Federal Litigation Division of the New York City Law Department. The City of New York writes in response to Class Counsel's letter dated December 20, 2023, seeking a court order to have hand delivery in Court of the service awards to the five class representatives, and imposition of sanctions. For the reasons set forth herein, we respectfully request that Class Counsel's application be denied.

At the outset we want to inform the Court that we have been advised by the New York City Office of the Comptroller that they have no individual who is sufficiently familiar with these issues who can make a personal appearance in Court tomorrow. The person in the Comptroller's office who has been spearheading this effort is not currently in the City though they can be available by telephone. We suggest, however, that the issues raised by counsel are sufficiently addressed below and that no appearance, either personally or via telephone at the start of the Christmas holiday weekend, is necessary.

As Class Counsel, who are experienced litigators are well aware, in the normal course, the Comptroller's Office requires no less than 90 days to process and make payment on settlements. Class Counsel asked during negotiations of the settlement, and the Comptroller's Office agreed, to reduce this time period to 45 days for payments of attorneys' fees and service awards. In hindsight what should have been specified was that it would be 45 days *after* receipt of the settlement paperwork from counsel and Plaintiffs for payments to be processed and made.

As seasoned attorneys who have settled many cases with the City, Class Counsel is also aware that the City cannot process settlement until all the paperwork is received. That normally means the paperwork from all the plaintiffs. Processing and payments was further complicated when one attorney sought to have a structured payment on the eve of the Fairness Hearing, and when all the paperwork was received at different times from each of the attorneys and Plaintiffs. In any event, Class Counsel specifically asked that efforts be made to process their fees individually as a result of the late request for a structured payment. No such request was made for the service awards.

This Office received Charles Wood's paperwork on November 17, 2023 but there were errors in his submission which were not corrected until November 20, 2023. We did not receive Alex Gutierrez's paperwork until December 8, 2023, after we reminded Class Counsel that it was outstanding. The other three Class Representatives, Ricardo Nigaglioni, Amali Sierra and Samia Sierra, provided their paperwork on November 23, 2023, November 29, 2023 and December 1, 2023, respectively. The parties conferred on December 7, 2023, on several remaining issues concerning the class settlement, including the status of the checks for attorneys' fees and service awards. Class Counsel was informed at that time that there would be a delay in payment of the service awards as all the paperwork for processing the awards was not yet received. They raised no objection at that time.

The Comptroller's Office has not been dilatory with these payments. Indeed, the Comptroller's Office has been working expeditiously, on a much shorter timeframe than usual, to get these payments processed and paid. There have provided many up to the minute daily updates through this Office to Class Counsel on the status of payment of their fees and the service awards. As such, it is not surprising that some of the information may change from day to day, and depending on who in the process was providing the update. Furthermore, a representative from the Comptroller's Office made it a point to personally speak with one of Plaintiff's attorney yesterday evening and another today to appraise them of the status of payments.

In this regard, as we advised Class Counsel earlier this week, that Amali Sierra's check was mailed on December 16, 2023. We received information this morning, that was not available in the system yesterday, that checks for Samira Sierra, Ricardo Nigaglioni and Charles Wood were already cut. The Comptroller's Office is confirming whether the checks will get to them in time for pick-up tomorrow. The payment to Alex Gutierrez, whose paperwork was only received on December 8, 2023, is still being processed and his check is not yet available. In summary, one service award was already mailed, three checks were cut yesterday and will be available by tomorrow, or the next business day thereafter. Gutierrez's check should be treated differently because of the lateness of him providing his paperwork. The Comptroller's Office advised that it should will be available sometime next week for pick up. In any event, changing the method of payment to wiring, as Class Counsel requests, will also further delay payment.

We further note that the funds for payments to the Class was timely wired to the Claims Administrator. Those claim checks, which include claim payments to these five class representatives, are scheduled to be mailed tomorrow. In addition, payment to two of the four Class Counsels that could be paid were already timely made on December 11, 2023.

We respectfully request that the Court deny Class Counsel's application to have a representative from the Comptroller's Office appear in-person at the Courthouse tomorrow to either deliver the checks or explain why payment has not yet been made. Considering the circumstances set forth above, and the Comptroller's Office's efforts to expedite these payments, and in light of the fact that some of the delay is due to Plaintiffs' actions, we respectfully ask that the Court find good cause for the brief delay in payment. We further respectfully submit that sanctions are not warranted here.

We thank the Court for its attention to this matter.

Respectfully submitted,

*Genevieve Nelson /s/*

Genevieve Nelson

Deputy Chief

Special Federal Litigation Division